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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,112	09/24/2003	Thomas J. Wheeler	OLYM/0095	8153

7590 12/09/2005
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EXAMINER

GUADALUPE, YARITZA

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/670,112	Applicant(s) WHEELER ET AL.	
	Examiner Yaritza Guadalupe McCall	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10,12-15,20,21,33-38 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,4-10,12-15,20,21,33,34,38 and 40 is/are allowed.
- 6) ☒ Claim(s) 1,35-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to the Request for reconsideration filed September 30, 2005

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liao (US Pub. No. 2004/0221462) in view of Chen (US 6,763,598).

In regards to claim 1, Liao discloses a laser level assembly comprising a base (20) having a laser (40) coupled thereto; at least one attachment means (magnet 27) for attaching the laser level to a surface (See paragraph [0023]), an adjustment assembly (41, 45), wherein the adjustment assembly provides a micro adjustment of at least a portion of the laser level relative to the surface an auxiliary base attachable to the base to provide leveling adjustments, and a lens (43).

Liao does not disclose a lens assembly as stated in claim 1.

With respect to claim 1: Chen discloses a laser level device comprising a lens assembly (5) movable between at least two positions, wherein each position of the lens assembly selectively aligns and positions a different one of at least two lenses (52) with respect to the laser in order to increase the versatility of the device by providing a projected reference dot, horizontal reference line or vertical reference line as desired by the user. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the lens arrangement (43) disclosed by Liao with a lens assembly as taught by Chen in order to increase the versatility of the device by providing a projected reference dot, horizontal reference line or vertical reference line as desired by the user.

3. Claims 35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liao (US Pub. No. 2004/0221462) in view of Gingras (US 6,253,670).

Liao discloses a laser level assembly comprising a base (20) having a laser (40) coupled thereto; at least one attachment means (27) for attaching the laser level to a surface, the attachment means being a magnet (27); an adjustment assembly (41, 45), wherein the adjustment assembly provides a micro adjustment of at least a portion of the laser level relative to the surface an auxiliary base attachable to the base to provide leveling adjustments, and a lens (43.).

Liao does not disclose the suction assembly as stated in claim 35.

With regards to the suction assembly : Gingras discloses an apparatus comprising a base (52) removably fixed to the apparatus and comprising a suction assembly / pad (54) and a lever (56) operable to ensure fixation of the suction cup (54) to the surface. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the attachment means disclosed by Liao with a suction assembly and lever as taught by Gingras since these are well known fasteners that are alternatively used to secure hold a structure to a surface.

In regards to claim 35, the method for projecting a reference line on an object comprising the steps of contacting a suction assembly of a laser level to a surface; rotating a lever of the suction assembly to raise a portion of a pad/suction cup thereby creating a suction between the pad/suction cup and the surface; and projecting a laser on the object to display the reference line would be achieved by the regular operation of the device disclosed by Liao and Gingras.

Regarding claim 37, the method including the step of rotating an adjustment handle (41, 45 of Liao) to provide micro adjustments of the laser level relative to the surface will be achieved by the regular operation of the device disclosed by Liao and Gingras.

4. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liao (US Pub. No. 2004/02214762) in view of Gingras (US 6,253,670), as applied to claims 35 and 37 above, and further in view of Chen (US 6,763,598).

Liao and Gingras disclose an apparatus as stated in paragraph 6 above.

Liao and Gingras does not disclose the rotary part as stated in claim 36.

With respect to the rotary part : Chen discloses a laser level assembly (1) comprising a base (4); a laser (3); and a lens assembly (5), wherein the lens assembly selectively aligns and positions one of at least two lenses with respect to the laser, and wherein the lens assembly is rotatable (See Column 2, lines 55 – 59) and comprising a rotary part (5) that spaces the at least two lenses on a plane in a circular arrangement and a detent mechanism (43, 57) in order to increase the versatility of the device by providing a projected reference dot, horizontal reference line or vertical reference line as desired by the user. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the lens arrangement disclosed by Liao and Gingras with a lens assembly as taught by Chen in order to increase the versatility of the device by providing a projected reference dot, horizontal reference line or vertical reference line as desired by the user.

Regarding claim 36, the method further comprising the step of rotating a rotary part to select a lens will be performed by the regular operation of the device disclosed by Liao, Gingras and Chen.

Allowable Subject Matter

5. Claims 2, 4 – 10, 12 – 15, 20 - 21, 33 – 34, 38 and 40 are allowed.

Response to Arguments

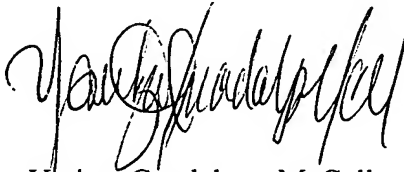
6. Applicant's arguments with respect to claims 1 – 2, 4 – 10, 12 – 15, 19 – 21, 33 – 38 and 40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yaritza Guadalupe-McCall
Patent Examiner
Art Unit 2859

YGM
December 8, 2005